

AMENDED IN ASSEMBLY FEBRUARY 24, 2005

CALIFORNIA LEGISLATURE—2005–06 FIRST EXTRAORDINARY SESSION

## **Assembly Constitutional Amendment**

**No. 4**

**Introduced by Assembly Member Keene**

January 20, 2005

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Assembly Constitutional Amendment No. 4—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Sections 10 and 12 of Article IV thereof, by amending Section 6 of Article XIII B thereof, by amending Section 8 of Article XVI thereof, by amending Section 6 of Article XIX thereof, by repealing Section 1 of Article XIX A thereof, and by amending Section 1 of Article XIX B thereof, relating to state finance.

### LEGISLATIVE COUNSEL'S DIGEST

ACA 4, as amended, Keene. State finances.

(1) The California Constitution provides, commencing in the 2004–05 fiscal year, that if, following the enactment of the annual Budget Bill, the Governor determines either that General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor is authorized to issue a proclamation declaring a fiscal emergency and is thereupon required to cause the Legislature to assemble in special session. These provisions require that the proclamation identify the nature of the fiscal emergency and be accompanied by proposed legislation to address the fiscal emergency. If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the

proclamation, the Legislature is prohibited from acting on any other bills and may not adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor. *Existing law also provides for a Budget Stabilization Account into which the Controller is required to transfer specified sums of General Fund moneys, for use as specified.*

This measure would require, rather than authorize, the Governor to issue a proclamation declaring a fiscal emergency, and specify that the proclamation would be issued when the Governor determines ~~either that General Fund revenues will decline below the estimate of General Fund revenues upon which the Budget Bill for that fiscal year was based, or that the sum of General Fund expenditures will increase above that estimate of General Fund revenues, or both,~~ and the amount of General Fund moneys transferred to the Budget Stabilization Account for a fiscal year will exceed General Fund revenues for that fiscal year by at least \$250,000,000, adjusted to reflect the rate of inflation shown in the California consumer price index as determined by the Director of Finance. The measure would also require, as an additional consequence if the Legislature fails to pass a bill or bills to address the fiscal emergency by the 45th day, *or under specified circumstances, by the 30th day,* that reductions be imposed, on a pro rata basis, on all General Fund appropriations enacted on or before the date of the proclamation, by a percentage estimated by the Director of Finance to cause total General Fund ~~appropriations~~ expenditures not to exceed General Fund revenues by the end of that fiscal year, with specified exceptions. *It would specify that benefits and services, including any entitlement created by state law, shall be provided at a level or in an amount consistent with the reduction in payment required under these provisions.* It would additionally require the amount of certain payments calculated pursuant to state ~~statute~~ law to be reduced as necessary to reflect the reduction in General Fund appropriations, *and would require any local funds that are required to be expended, as a condition of the availability of state funds under that calculation, to be similarly reduced by the local entity.* The reduction authority created pursuant to these provisions would apply until the effective date, no later than the end of that fiscal year, of a proclamation issued by the Governor declaring the end of the fiscal emergency.

(2) Existing provisions of the California Constitution authorize the Governor and the Governor-elect to require a state agency, officer, or

employee to furnish whatever information is necessary to prepare the state budget.

This measure would specifically require the Director of Finance to advise the Governor on the current status of state revenues and expenditures ~~in May and November of each year at least quarterly,~~ and at the beginning of any fiscal year for which a ~~budget bill~~ *Budget Bill* has not been enacted.

(3) Existing provisions of the California Constitution require the Legislature to pass the ~~budget bill~~ *Budget Bill* by midnight on June 15 of each year.

This measure would provide, for the ~~first full fiscal year following the effective date of the measure~~ *2005–06 fiscal year*, and any subsequent fiscal year, that if the ~~budget bill~~ *Budget Bill* is not enacted by July 1, amounts equal to the amounts appropriated by the items of appropriation in the Budget Act and any amendments to the Budget Act for the immediately preceding fiscal year would be appropriated, as specified, until a ~~budget bill~~ *Budget Bill* for the new fiscal year is enacted, subject to any applicable expenditure reductions. *While this spending authority is in effect for a fiscal year, the measure would limit the amount of any continuous appropriation from the General Fund, including State School Fund moneys, to the amount apportioned for those continuous appropriations for the prior fiscal year. It would specify that when an appropriation under these provisions is insufficient to fully fund an entitlement created by state law, the entitlement shall be deemed to be limited to the amount of funds appropriated, as specified.*

(4) Existing provisions of the California Constitution and various statutes authorize the loan to the General Fund of moneys in specified funds and accounts, including loans from the Public Transportation Account in the State Transportation Fund.

This measure would, on and after July 1, 2006, prohibit the transfer of funds from a special fund to the General Fund as a loan, with specified exceptions. Any funds that were transferred prior to that date from a special fund to the General Fund for the purpose of making a loan to the General Fund and *that* have not been repaid to that special fund by July 1, 2006, would be required to be repaid to that special fund by July 1, 2021.

(5) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, the state is required to provide a subvention of

funds to reimburse the local government, with specified exceptions. The California Constitution provides that payable claims for costs incurred prior to the 2004–05 fiscal year that have not been paid prior to the 2005–06 fiscal year may be paid over a term of years, as prescribed by law. Existing statutory law provides that these claims be paid over a period not to exceed 5 years.

This measure would provide that the term of years over which payable claims shall be paid shall not exceed 15 years.

(6) Existing provisions of the California Constitution require that specified state funds be applied annually for the support of school districts and community college districts in an amount not less than the greater of the amounts calculated under 3 different tests: ~~(1)~~ (a) the amount that as a percentage of General Fund revenues appropriated for school districts and community college districts is equal to the percentage of General Fund revenues appropriated for that purpose in the 1986–87 fiscal year (Test 1), ~~(2)~~ (b) the amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year adjusted for changes in enrollment and cost of living, operative only in a fiscal year in which the percentage growth in per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus ~~.5%~~ 0.5% (Test 2), or ~~(3)~~ (c) the amount calculated pursuant to Test 2, but adjusted for changes in enrollment and the change in per capita General Fund revenues, operative only when the percentage growth in per capita personal income is greater than the percentage growth in per capita General Fund revenues plus ~~.5%~~ 0.5% (Test 3).

Existing provisions of the California Constitution also permit the suspension of these provisions by the Legislature, with certain requirements, and provide that school districts or community college districts are entitled to a maintenance factor, as specified, if these provisions are suspended by the Legislature, or if funding of the public education system is computed pursuant to Test 3, as described above.

This measure would ~~provide that~~ *repeal* the provisions setting forth Test 3 as an alternative calculation to be used in determining the minimum annual amount required to be appropriated for the support of school districts and community college districts ~~are not operative in fiscal years succeeding the fiscal year in which this measure became~~

~~effective, and would provide that~~ *repeal* the authority to suspend the requirement to appropriate that minimum annual funding guarantee ~~applies only to those fiscal years preceding the fiscal year that commences subsequent to the effective date of this measure, and would repeal the related provisions providing for maintenance factors.~~ This measure would require that the total *outstanding* amount of any maintenance factors *under the repealed provisions* be repaid in total no later than July 1, 2021, and that the amount of that repayment be excluded from consideration in calculating the minimum funding guarantee for *the 2005–06 fiscal year, and any subsequent fiscal year.*

This measure would provide, as specified, that appropriations made for ~~a the 2005–06 fiscal year, or any subsequent fiscal year,~~ that exceed the minimum funding guarantee for that fiscal year are excluded from consideration in calculating the minimum funding guarantee for any subsequent fiscal year, as determined under Test 2; ~~unless the statute making such an appropriation specifies otherwise.~~

This measure would require any balance of amounts that were required to be allocated under the existing minimum annual funding guarantee for the 2003–04 fiscal year or any preceding fiscal year, but *that* were not allocated as of the effective date of this measure, to be repaid in total, on a specified allocated basis, within 15 years from that date.

This measure would further provide that the balance of any amounts required under the annual funding guarantee to be allocated to school districts and community college districts for the 2004–05 fiscal year, or any subsequent fiscal year, ~~that were~~ *was* not allocated prior to the end of that fiscal year ~~are~~ *is* continuously appropriated to the Controller from the General Fund for allocation to school districts and community college districts upon the certification of the final data necessary for the calculation of the annual funding guarantee by the Department of Finance and the Superintendent of Public Instruction, subject to certain requirements. The measure would permit the Legislature to require a school district or community college district to use those funds for a specified purpose.

(7) Existing provisions of the California Constitution require sales taxes on motor vehicle fuel that are deposited in the General Fund to be transferred to the Transportation Investment Fund for allocation to various transportation purposes. These provisions authorize the transfer of these revenues to the Transportation Investment Fund to be suspended, in whole or in part, for a fiscal year during a fiscal

emergency pursuant to a proclamation issued by the Governor and the enactment of a statute by a  $\frac{2}{3}$  vote of both houses of the Legislature, if the statute does not contain any unrelated provision.

This measure instead would provide that the transfer of revenues from the General Fund to the Transportation Investment Fund may be suspended, in whole or in part, and subject to these conditions, for any fiscal year preceding the 2007–08 fiscal year.

The measure would also require that the total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund to the Transportation Investment Fund because of a suspension pursuant to these provisions be repaid to the Transportation Investment Fund no later than June 30, 2022, and that until the total amount has been repaid, the amount of repayment to be made in each fiscal year shall not be less than  $\frac{1}{15}$  of the total amount due. It would authorize the Legislature to provide by statute for the issuance of bonds secured by these payments, with the proceeds to be used for purposes consistent with the provisions governing the Transportation Investment Fund, and for costs associated with the issuance and sale of the bonds.

*(8) This measure would declare that its provisions are severable, and that any invalidity of one of its provisions or applications shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1     *Resolved by the Assembly, the Senate concurring,* That the  
2     Legislature of the State of California at its 2005–06 Regular  
3     Session commencing on the sixth day of December 2004,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California, that the  
6     Constitution of the State be amended as follows:  
7     First—That Section 10 of Article IV thereof is amended to  
8     read:  
9     SEC. 10. (a) Each bill passed by the Legislature shall be  
10    presented to the Governor. It becomes a statute if it is signed by  
11    the Governor. The Governor may veto it by returning it with any  
12    objections to the house of origin, which shall enter the objections  
13    in the journal and proceed to reconsider it. If each house then  
14    passes the bill by rollcall vote entered in the journal, two-thirds  
15    of the membership concurring, it becomes a statute.

1 (b) (1) Any bill, other than a bill which would establish or  
2 change boundaries of any legislative, congressional, or other  
3 election district, passed by the Legislature on or before the date  
4 the Legislature adjourns for a joint recess to reconvene in the  
5 second calendar year of the biennium of the legislative session,  
6 and in the possession of the Governor after that date, that is not  
7 returned within 30 days after that date becomes a statute.

8 (2) Any bill passed by the Legislature before September 1 of  
9 the second calendar year of the biennium of the legislative  
10 session and in the possession of the Governor on or after  
11 September 1 that is not returned on or before September 30 of  
12 that year becomes a statute.

13 (3) Any other bill presented to the Governor that is not  
14 returned within 12 days becomes a statute.

15 (4) If the Legislature by adjournment of a special session  
16 prevents the return of a bill with the veto message, the bill  
17 becomes a statute unless the Governor vetoes the bill within 12  
18 days after it is presented by depositing it and the veto message in  
19 the office of the Secretary of State.

20 (5) If the 12th day of the period within which the Governor is  
21 required to perform an act pursuant to paragraph (3) or (4) of this  
22 subdivision is a Saturday, Sunday, or holiday, the period is  
23 extended to the next day that is not a Saturday, Sunday, or  
24 holiday.

25 (c) Any bill introduced during the first year of the biennium of  
26 the legislative session that has not been passed by the house of  
27 origin by January 31 of the second calendar year of the biennium  
28 may no longer be acted on by the house. No bill may be passed  
29 by either house on or after September 1 of an even-numbered  
30 year except statutes calling elections, statutes providing for tax  
31 levies or appropriations for the usual current expenses of the  
32 State, and urgency statutes, and bills passed after being vetoed by  
33 the Governor.

34 (d) The Legislature may not present any bill to the Governor  
35 after November 15 of the second calendar year of the biennium  
36 of the legislative session.

37 (e) The Governor may reduce or eliminate one or more items  
38 of appropriation while approving other portions of a bill. The  
39 Governor shall append to the bill a statement of the items  
40 reduced or eliminated with the reasons for the action. The

1 Governor shall transmit to the house originating the bill a copy of  
2 the statement and reasons. Items reduced or eliminated shall be  
3 separately reconsidered and may be passed over the Governor's  
4 veto in the same manner as bills.

5 (f) (1) ~~If, following the enactment of the budget bill for the~~  
6 ~~2004-05 fiscal year or any subsequent fiscal year, the Governor~~  
7 ~~determines that, for that fiscal year, General Fund revenues will~~  
8 ~~decline below the estimate of General Fund revenues upon which~~  
9 ~~the budget bill for that fiscal year, as enacted, was based, or~~  
10 ~~General Fund expenditures will increase above that estimate of~~  
11 ~~General Fund revenues, or both, the Governor determines that~~  
12 ~~the sum of General Fund expenditures and the amount of~~  
13 ~~General Fund moneys transferred to the Budget Stabilization~~  
14 ~~Account pursuant to Section 20 of Article XVI for a fiscal year~~  
15 ~~will exceed General Fund revenues for that fiscal year by at least~~  
16 ~~two hundred fifty million dollars (\$250,000,000), adjusted to~~  
17 ~~reflect the rate of inflation shown in the appropriate California~~  
18 ~~consumer price index as identified determined by the Director of~~  
19 ~~Finance, the Governor shall issue a proclamation declaring a~~  
20 ~~fiscal emergency and shall thereupon cause the Legislature to~~  
21 ~~assemble in special session for this purpose. The proclamation~~  
22 ~~shall identify the nature of the fiscal emergency and shall be~~  
23 ~~submitted by the Governor to the Legislature, accompanied by~~  
24 ~~proposed legislation to address the fiscal emergency.~~

25 (2) If the Legislature fails to pass and send to the Governor a  
26 bill or bills to address the fiscal emergency by the 45th day  
27 following the issuance of the proclamation, or the 30th day if  
28 appropriation authority is currently provided pursuant to  
29 subdivision (g) of Section 12, all of the following shall occur:

30 (A) The Legislature may not act on any other bill, nor may the  
31 Legislature adjourn for a joint recess, until that bill or those bills  
32 have been passed and sent to the Governor.

33 (B) (i) Notwithstanding any other provision of this  
34 Constitution, all General Fund appropriations enacted on or  
35 before the date of the issuance of the proclamation shall be  
36 reduced, on a pro rata basis, by that percentage that the Director  
37 of Finance estimates will cause total General Fund ~~appropriations~~  
38 *expenditures*, and the amount of any General Fund moneys  
39 transferred to the Budget Stabilization Account for that fiscal  
40 year pursuant to Section 20 of Article XVI, not to exceed



1 General Fund revenues by the end of that fiscal year. The  
2 Controller shall implement this subparagraph by applying the  
3 percentage estimated by the Director of Finance to every  
4 payment of General Fund moneys in a warrant that is issued  
5 under the authority of any affected appropriation. ~~In addition, the~~  
6 ~~amount of any payment that is calculated pursuant to state~~  
7 ~~statute, and issued by a government entity other than the~~  
8 ~~Controller, shall, to the extent funded from the General Fund of~~  
9 ~~the State, be reduced as necessary to reflect the reduction~~  
10 ~~required by this subparagraph. Benefits and services, including~~  
11 ~~any entitlement created by state law, shall be provided at a level~~  
12 ~~or in an amount consistent with the reduction in payment~~  
13 ~~required under this subparagraph. In addition, the amount of any~~  
14 ~~payment that is calculated pursuant to state law, and issued by a~~  
15 ~~government entity, including a local government agency, other~~  
16 ~~than the Controller, shall, to the extent funded from the General~~  
17 ~~Fund of the state, be reduced by the same percentage that~~  
18 ~~payment of General Fund moneys are reduced pursuant to this~~  
19 ~~subparagraph, and any local funds that are required to be~~  
20 ~~expended as a condition of the availability of state funds under~~  
21 ~~that calculation shall be similarly reduced by the local entity.~~

22 (ii) This subparagraph shall not apply to a payment required  
23 by ~~federal law, the United States Constitution, or to a payment~~  
24 ~~required to meet obligations with respect to state bonded~~  
25 ~~indebtedness, or a payment required under a contract, collective~~  
26 ~~bargaining agreement, or other entitlement under law for which~~  
27 ~~liability of the State for payment arose before the effective date~~  
28 ~~of the measure that added this subparagraph.~~

29 (iii) Notwithstanding any other provision of this Constitution,  
30 this subparagraph shall apply to any General Fund payment made  
31 with respect to any contract, collective bargaining agreement, or  
32 other entitlement under law for which liability of the State to pay  
33 arises on or after the effective date of the measure that added this  
34 subparagraph. This subparagraph shall be deemed to be included  
35 in every contract or other agreement to which the State is a party  
36 and any provision of state law under which the State is to make  
37 any payment.

38 (iv) The reduction authority set forth in this subparagraph  
39 applies until the effective date, no later than the end of that fiscal

1 year, of a proclamation issued by the Governor declaring the end  
2 of the fiscal emergency.

3 (3) A bill addressing the fiscal emergency declared pursuant to  
4 this section shall contain a statement to that effect.

5 Second—That Section 12 of Article IV thereof is amended to  
6 read:

7 SEC. 12. (a) Within the first 10 days of each calendar year,  
8 the Governor shall submit to the Legislature, with an explanatory  
9 message, a budget for the ensuing fiscal year containing itemized  
10 statements for recommended state expenditures and estimated  
11 state revenues. If recommended expenditures exceed estimated  
12 revenues, the Governor shall recommend the sources from which  
13 the additional revenues should be provided.

14 (b) (1) The Governor and the Governor-elect may require a  
15 state agency, officer, or employee to furnish whatever  
16 information is deemed necessary to prepare the budget.

17 (2) The Director of Finance shall advise the Governor on the  
18 current status of state revenues and expenditures ~~in May and~~  
19 ~~November of each year~~ *at least quarterly*, and at the beginning of  
20 any fiscal year for which a budget bill has not been enacted.

21 (c) (1) The budget shall be accompanied by a budget bill  
22 itemizing recommended expenditures.

23 (2) The budget bill shall be introduced immediately in each  
24 house by the persons chairing the committees that consider the  
25 budget.

26 (3) The Legislature shall pass the budget bill by midnight on  
27 June 15 of each year.

28 (4) Until the budget bill has been enacted, the Legislature shall  
29 not send to the Governor for consideration any bill appropriating  
30 funds for expenditure during the fiscal year for which the budget  
31 bill is to be enacted, except emergency bills recommended by the  
32 Governor or appropriations for the salaries and expenses of the  
33 Legislature.

34 (d) No bill except the budget bill may contain more than one  
35 item of appropriation, and that for one certain, expressed  
36 purpose. Appropriations from the General Fund of the State,  
37 except appropriations for the public schools, are void unless  
38 passed in each house by rollcall vote entered in the journal,  
39 two-thirds of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill’s passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill’s passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

~~(g) For the first full fiscal year following the effective date of the measure that added this subdivision~~ 2005–06 fiscal year, or any subsequent fiscal year, if the budget bill is not enacted prior to July 1, as of that date amounts equal to the amounts appropriated by each of the items of appropriation in the ~~budget act~~ Budget Act and any amendments to the ~~budget act~~ Budget Act for the immediately preceding fiscal year are hereby appropriated for the current fiscal year in the same proportions, for the same purposes, from the same funding sources, and under the same conditions that apply to those items under that ~~budget act or amendment to the budget act~~ Budget Act or amendment to the Budget Act. When an appropriation made pursuant to this subdivision is insufficient to fully fund an entitlement created by state law during the portion of the fiscal year for which this subdivision is operative, the entitlement shall be deemed limited, for that portion of the fiscal year, to the amount of funds appropriated pursuant to this subdivision for that purpose. The appropriation authority set forth in this subdivision applies until ~~the effective date of the budget act enacted for that fiscal year.~~ the effective date of the Budget Act for that fiscal year. For so long as the appropriation authority set forth in this subdivision applies to a fiscal year, the amount of any continuous appropriation from the General Fund of the State for that fiscal year, including the continuous appropriation from the State

1 *School Fund pursuant to Section 6 of Article IX, shall not exceed*  
2 *the amount appropriated pursuant to that continuous*  
3 *appropriation for the immediately preceding fiscal year.*

4 (h) (1) On and after July 1, 2006, funds may not be  
5 transferred from a special fund to the General Fund as a loan.  
6 Any funds transferred prior to that date from a special fund to the  
7 General Fund for the purpose of making a loan to the General  
8 Fund and not repaid to that special fund by July 1, 2006, shall be  
9 repaid to that special fund no later than July 1, 2021.

10 (2) The prohibition contained in this subdivision does not  
11 apply to loans made for the purpose of meeting the short-term  
12 ~~cash-flow~~ *cashflow* needs of the State if any amount owed is to  
13 be repaid in full to the fund from which it was borrowed ~~during~~  
14 ~~the same fiscal year in which the loan was made, or if repayment~~  
15 ~~is to be made no later than a date not more than 30 days after the~~  
16 ~~date of enactment of the budget bill for the subsequent fiscal~~  
17 ~~year.~~ *prior to the date when the transfer would interfere with the*  
18 *carrying out of any object for which the special fund was*  
19 *created.*

20 Third—That Section 6 of Article XIII B thereof is amended to  
21 read:

22 SEC. 6. (a) Whenever the Legislature or any state agency  
23 mandates a new program or higher level of service on any local  
24 government, the State shall provide a subvention of funds to  
25 reimburse that local government for the costs of the program or  
26 increased level of service, except that the Legislature may, but  
27 need not, provide a subvention of funds for the following  
28 mandates:

29 (1) Legislative mandates requested by the local agency  
30 affected.

31 (2) Legislation defining a new crime or changing an existing  
32 definition of a crime.

33 (3) Legislative mandates enacted prior to January 1, 1975, or  
34 executive orders or regulations initially implementing legislation  
35 enacted prior to January 1, 1975.

36 (b) (1) Except as provided in paragraph (2), for the 2005–06  
37 fiscal year and every subsequent fiscal year, for a mandate for  
38 which the costs of a local government claimant have been  
39 determined in a preceding fiscal year to be payable by the State  
40 pursuant to law, the Legislature shall either appropriate, in the

1 annual Budget Act, the full payable amount that has not been  
2 previously paid, or suspend the operation of the mandate for the  
3 fiscal year for which the annual Budget Act is applicable in a  
4 manner prescribed by law. *A reduction in an appropriation*  
5 *pursuant to subparagraph (B) of paragraph (2) of subdivision (f)*  
6 *of Section (10) of Article IV shall not be deemed to reduce the*  
7 *reimbursement amount to which a local agency is entitled*  
8 *pursuant to this section.*

9 (2) Payable claims for costs incurred prior to the 2004–05  
10 fiscal year that have not been paid prior to the 2005–06 fiscal  
11 year shall be paid over a term of not more than 15 years, as  
12 prescribed by law.

13 (3) Ad valorem property tax revenues shall not be used to  
14 reimburse a local government for the costs of a new program or  
15 higher level of service.

16 (4) This subdivision applies to a mandate only as it affects a  
17 city, county, city and county, or special district.

18 (5) This subdivision shall not apply to a requirement to  
19 provide or recognize any procedural or substantive protection,  
20 right, benefit, or employment status of any local government  
21 employee or retiree, or of any local government employee  
22 organization, that arises from, affects, or directly relates to future,  
23 current, or past local government employment and that  
24 constitutes a mandate subject to this section.

25 (c) A mandated new program or higher level of service  
26 includes a transfer by the Legislature from the State to cities,  
27 counties, cities and counties, or special districts of complete or  
28 partial financial responsibility for a required program for which  
29 the State previously had complete or partial financial  
30 responsibility.

31 Fourth—That Section 8 of Article XVI thereof is amended to  
32 read:

33 SEC. 8. (a) From all state revenues there shall first be set  
34 apart the moneys to be applied by the State for support of the  
35 public school system and public institutions of higher education.

36 (b) Commencing with the 1990–91 fiscal year, the moneys to  
37 be applied by the State for the support of school districts and  
38 community college districts shall be not less than the greater of  
39 either of the following amounts:

(1) The amount that, as a percentage of General Fund revenues that may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in the 1986–87 fiscal year.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes are not less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. ~~This paragraph is operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one-half of one percent.~~

~~(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.~~

~~(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.~~

~~(C) This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one-half of one percent.~~

~~(D) This paragraph is not operative in any fiscal year succeeding the fiscal year in which the measure that added this subparagraph became effective.~~

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) of subdivision (b) in the subsequent fiscal year.

(d) If, for ~~any~~ *the 2005–06 fiscal year, or any subsequent* fiscal year, an amount is appropriated for the support of school districts and community college districts in excess of the minimum amount required to be appropriated for that fiscal year pursuant to subdivision (b), the excess amount so appropriated shall not be deemed an allocation to school districts and community college districts for purposes of calculating the moneys to be applied by the State for the support of those entities for any subsequent fiscal year pursuant to paragraph (2) of subdivision (b); ~~unless the statute making that excess appropriation specifies that this exclusion does not apply.~~

(e) (1) The total amount of any *outstanding* maintenance factors, arising pursuant to former subdivision (d) for one or more fiscal years preceding the ~~fiscal year that commences subsequent to the effective date of the measure that added this subdivision~~ *2005–06 fiscal year*, shall be repaid no later than July 1, 2021. The repayment of any maintenance factor pursuant to this paragraph for any fiscal year shall be divided between school districts and community college districts in the same proportion that allocations for that fiscal year that were made prior to the effective date of the measure that added this subdivision were apportioned to school districts and community college districts. The payment of a maintenance factor amount in ~~any fiscal year~~ *the 2005–06 fiscal year, or any subsequent fiscal year*, shall not be deemed an allocation to school districts and community college districts for purposes of calculating the moneys to be applied by the State for the support of those entities for any subsequent fiscal year pursuant to paragraph (2) of subdivision (b).

(2) The balance of any amounts that were required by this section to be allocated to school districts and community college

1 districts for the 2003–04 fiscal year, or any preceding fiscal year,  
2 but were not allocated as of the effective date of the measure that  
3 added this subdivision, shall be allocated no later than 15 years  
4 following that date. The total amount of augmentations allocated  
5 pursuant to this paragraph for any fiscal year shall be divided  
6 between school districts and community college districts in the  
7 same proportion that allocations for that fiscal year that were  
8 made prior to the effective date of the measure that added this  
9 subdivision were apportioned to school districts and community  
10 college districts.

11 (3) (A) The balance of any amounts that are required by this  
12 section to be allocated to school districts and community college  
13 districts, for the 2004–05 fiscal year, or any subsequent fiscal  
14 year, but are not allocated as of the end of that fiscal year, are  
15 continuously appropriated to the Controller from the General  
16 Fund of the State for allocation to school districts and community  
17 college districts upon the certification by the Department of  
18 Finance and the Superintendent of Public Instruction of the final  
19 data necessary to perform the calculations required pursuant to  
20 subdivision (b). That certification shall be completed within 24  
21 months subsequent to the end of the fiscal year. The amount  
22 appropriated pursuant to this paragraph shall be divided between  
23 school districts and community college districts in the same  
24 proportion that allocations were made during that fiscal year to  
25 school districts and community college districts.

26 (B) The Legislature may require, in the ~~budget act~~ *Budget Act*  
27 or any other statute, that a school district or community college  
28 district use funds allocated pursuant to this paragraph for a  
29 specified purpose.

30 (f) (1) Payable claims for state–mandated costs incurred prior  
31 to the 2004–05 fiscal year by a school district or community  
32 college district that have not been paid prior to the 2005–06 fiscal  
33 year shall be paid no later than the 2020–21 fiscal year.

34 (2) Amounts allocated to a school district or community  
35 college district for a fiscal year pursuant to subdivision (b) shall  
36 first be expended by the district to pay the costs for state  
37 mandates incurred during that fiscal year.

38 (g) (1) For purposes of this section, “changes in enrollment”  
39 shall be measured by the percentage change in average daily  
40 attendance. However, in any fiscal year, there shall be no



adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(2) For purposes of this section, “maintenance factor” means the difference between (A) the amount of General Fund moneys that would have been appropriated for a fiscal year pursuant to paragraph (2) of subdivision (b) if that paragraph, rather than former paragraph (3) of that subdivision, had been operative or, as applicable, the amount of General Fund moneys that would have been appropriated for a fiscal year pursuant to subdivision (b) had subdivision (b) not been suspended pursuant to a statute enacted prior to ~~January~~ July 1, 2005, and (B) the amount of General Fund moneys actually appropriated to school districts and community college districts for that fiscal year.

~~(h) (1) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.~~

~~(2) This subdivision is not operative in any fiscal year succeeding the fiscal year in which the measure that added this paragraph became effective.~~

Fifth—That Section 6 of Article XIX thereof is amended to read:

SEC. 6. ~~Nothing in subdivision~~ Subdivision (h) of Section 12 of Article IV ~~prohibits~~ *does not prohibit* the Legislature from authorizing, by statute, loans to local transportation agencies, cities, counties, or cities and counties, from funds that are subject to this article, for the purposes authorized under this article. Any loan authorized as described by this section shall be repaid, with interest at the rate paid on money in the Pooled Money Investment Account, or any successor to that account, during the period of time that the money is loaned, to the fund from which it was borrowed, not later than four years after the date on which the loan was made.

1 Sixth—That Section 1 of Article XIX A thereof is repealed.

2 Seventh—That Section 1 of Article XIX B thereof is amended  
3 to read:

4 SECTION 1. (a) For the 2003–04 fiscal year and each fiscal  
5 year thereafter, all moneys that are collected during the fiscal  
6 year from taxes under the Sales and Use Tax Law (Part 1  
7 (commencing with Section 6001) of Division 2 of the Revenue  
8 and Taxation Code), or any successor to that law, upon the sale,  
9 storage, use, or other consumption in this State of motor vehicle  
10 fuel, and that are deposited in the General Fund of the State  
11 pursuant to that law, shall be transferred to the Transportation  
12 Investment Fund, which is hereby created in the State Treasury.

13 (b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive,  
14 moneys in the Transportation Investment Fund shall be allocated,  
15 upon appropriation by the Legislature, in accordance with  
16 Section 7104 of the Revenue and Taxation Code as that section  
17 read on March 6, 2002.

18 (2) For the 2008–09 fiscal year and each fiscal year thereafter,  
19 moneys in the Transportation Investment Fund shall be allocated  
20 solely for the following purposes:

21 (A) Public transit and mass transportation.

22 (B) Transportation capital improvement projects, subject to the  
23 laws governing the State Transportation Improvement Program,  
24 or any successor to that program.

25 (C) Street and highway maintenance, rehabilitation,  
26 reconstruction, or storm damage repair conducted by cities,  
27 including a city and county.

28 (D) Street and highway maintenance, rehabilitation,  
29 reconstruction, or storm damage repair conducted by counties,  
30 including a city and county.

31 (c) For the 2008–09 fiscal year and each fiscal year thereafter,  
32 moneys in the Transportation Investment Fund shall be allocated,  
33 upon appropriation by the Legislature, as follows:

34 (1) Twenty percent of the moneys for the purposes set forth in  
35 subparagraph (A) of paragraph (2) of subdivision (b).

36 (2) Forty percent of the moneys for the purposes set forth in  
37 subparagraph (B) of paragraph (2) of subdivision (b).

38 (3) Twenty percent of the moneys for the purposes set forth in  
39 subparagraph (C) of paragraph (2) of subdivision (b).

(4) Twenty percent of the moneys for the purpose set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) (1) The transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for any fiscal year preceding the 2007–08 fiscal year if both of the following conditions are met:

(A) The Governor has issued a proclamation that declares that the transfer of revenues pursuant to subdivision (a) will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State.

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues pursuant to subdivision (a), provided that the bill does not contain any other unrelated provision.

(2) (A) The total amount, as of July 1, 2007, of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund because of a suspension pursuant to this subdivision shall be repaid to the Transportation Investment Fund no later than June 30, 2022. Until that total amount has been repaid, the amount of that repayment to be made in each fiscal year shall not be less than  $\frac{1}{15}$  of the total amount due.

(B) ~~The~~ *Notwithstanding Article XVI, the* Legislature may provide by statute for the issuance of bonds by the State or local agencies, as applicable, that are secured by the payments required by this paragraph. Proceeds of the sale of the bonds shall be applied for purposes consistent with this article, and for costs associated with the issuance and sale of the bonds.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

*Eighth—That the provisions of this measure are severable. If any provision of this measure or its application is held*

1 *unconstitutional or otherwise invalid, that invalidity shall not*  
2 *affect other provisions or applications that can be given effect*  
3 *without the invalid provision or application.*

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7 **CORRECTIONS:**

8 **Title - Line 1.**

9 **Digest - Pages 2 & 6.**

10 **Text - Pages 9, 15, & 19.**

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